

**At a Regular Meeting of the Town Council of the Town of Middletown,
RI held at the Middletown Town Hall on Monday, April 16, 2012 at 6:00
P.M.**

Council President Arthur S. Weber, Jr., Presiding

Vice President Bruce J. Long

Councillor Richard Cambra

Councillor Antone C. Viveiros

Councillor Barbara A. VonVillas, Members Present

Councillor Christopher T. Semonelli, Absent

Councillor Edward J. Silveira, Jr.

PLEDGE OF ALLEGIANCE TO THE FLAG

RECONSIDERATION

The Middletown Town Council follows the codification of present-day general parliamentary law as articulated in Robert's Rules of Order Newly Revised 10th edition (2000), together with whatever rules of order the Council has adopted for its own governance. The motion to reconsider is one of the motions that can bring a question again before an assembly, and is designed to bring back for further consideration a motion which has already been voted on:

If, in the same session that a motion has been voted on, but no later than the same day or the next day on which a business meeting is held, new information or a changed situation makes it appear that a different result might reflect the true will of the assembly, a member who voted with the prevailing side can, by moving to Reconsider [RONR (10th ed.), p. 304-321] the vote, propose that the question shall come before the assembly again as if it had not previously been considered. (From Robert's Rules of Order Newly Revised In Brief, Robert, Evans et al., De Capo Press, 2004)

There were no reconsiderations.

CHARTER REVISIONS

- 1. Memorandum of Council President Weber, with enclosure, re: Town of Middletown – Town Charter revisions.**

On motion of Vice President Long, duly seconded, it was voted unanimously to receive memorandum #1, #2 and #3.

- 2. Memorandum of Town Administrator, re: Charter Language concerning Deputy Fire Chief.**

Memorandum was received with memorandum #1 and #3.

3. Memorandum of Town Administrator, re: An Additional Proposed Charter Amendment.

Memorandum was received with memorandum #2 and #3.

Town Solicitor Michael W. Miller noted in early 2011 the Council reviewed possible changes to the charter, which will assist the Council with labor contracts. At the last Special Meeting regarding the Charter, there was no action was taken; the Council noted that the matter would be revisited at a later date. There has been no change to the amendments from the 2011 Special Meeting.

Attorney Daniel Kinder addressed the Council reviewing the following:

Discussion centered around the Burrillville amendment, “The Town Council shall have the authority to merge common duties, functions and services of any agency of the Town of Burrillville Sewer

Commission and Burrillville School Department”, section 207 of the Town Charter (Power to determine policy; other enumerated powers) and removal of Section 702 (Fire) from the proposed changes.

On motion of Vice President Long, duly seconded, it was voted unanimously to remove Section 702 from the proposed charter revisions.

On motion of Vice President Long, duly seconded, it was voted unanimously to consider the Burrillville amendment as a charter revision.

On motion of Vice President Long, duly seconded, it was voted unanimously to have a Public Hearing on Charter revisions for May 21, 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to recess this meeting at 6:40 pm.

On motion of Vice President Long, duly seconded, it was voted unanimously to reconvene this meeting at 7:00 pm.

PUBLIC FORUM SESSION

4. Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.

M. Theresa Santos, 214 Morrison Avenue, expressed concern that the Council has voted to remove the billboards from East Main Road, which generates income for the Town.

Vice President Long requested that item #18 be hearing under the regular portion of the docket.

CONSENT

5. Approval of Minutes – Special Meeting, March 26, 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to approve said minutes.

6. Approval of Minutes – Regular Meeting, April 2, 2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to approve said minutes.

7. Continued from Regular Meeting, April 2, 2012

Continued from Regular Meeting, March 19, 2012

Continued from Regular Meeting, March 5, 2012

Memorandum of Town Administrator, with enclosures, re: Second Beach Equipment Rental Concession. (Administration requests to continue this item to the next regular meeting of the Council.)

On motion of Vice President Long, duly seconded, it was voted unanimously to continue this matter to the next regular meeting of the Council to be held on May 7, 2012.

8. Continued from Regular Meeting, April 2, 2012

Continued from Regular Meeting, March 19, 2012

Continued from Regular Meeting, March 5, 2012

Resolution of the Council, re: Second Beach Equipment Rental Concession.

(Administration requests to continue this item to the next regular meeting of the Council.)

On motion of Vice President Long, duly seconded, it was voted unanimously to continue this matter to the next regular meeting of the Council to be held on May 7, 2012.

9. Communication of Jeffrey M. Willis, Deputy Director, Coastal Resources Management Council, re: Modification of CRMC Assent A2008-118; Plat 127 Lot18; Sachuest Beach Road.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.

10. Communication of Terrence E. Mercer, Associate Administrator, Motor Carriers Section, State of Rhode Island, Division of Public Utilities and Carriers, re: Copy of notice of Public hearing,

application of Newporttravel, LLC to amend its (“CPCN”) which jitney transportation services in and/or through your municipality.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.

11. Memorandum of Accounting Manager, re: Quarterly Tax Collector’s Report as of 3/31/2012 – Town of Middletown.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum and report.

12. Communication of Tax Assessor, with enclosure, re: Cancellation of Taxes for certain Middletown residents.

On motion of Vice President Long, duly seconded, it was voted

unanimously to receive said communication.

13. Resolution of the Council, re: Cancellation of Taxes for certain Middletown residents.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

14. Memorandum of Jan Eckhart, Chairman, Middletown Planning Board, re: Advisory recommendation on petition of 28 Jacome Way, LLC for amendments to the Middletown Zoning Ordinance, regarding ground-mounted solar array. (Requires Advertising for Public Hearing)

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum and advertise zoning amendments for public hearing on May 7, 2012.

15. Resolutions and Email Communications from Rhode Island Cities and Towns, re: Requesting support in opposition to H7617 and reject any and all binding arbitration legislation currently being considered for teacher and other school employee contracts, support for H7272 moving the teacher layoff notice deadline from March 1 to June 1, support in opposition to H7250 mandating expired teacher contracts must continue at the existing terms and conditions, support in opposition to 7620 An Act Relating to Labor and Labor Relations Municipal Employee arbitration, support in opposition to H7618 and H7619 An Act Relating to Firefighter and Police arbitration, support for a Referendum relating to the Code of Ethics, support for S2673 to provide for use of post office boxes for the purposes of acknowledgement of registration or change of address and verification of residence in those cases where the prospective voter does not receive home mail delivery, and support for H7581 An Act Relating to Public Utilities and Carriers – Public Transit Investment.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said resolutions and Email communications.

16. Applications ten (10) from the following named persons, firms or corporations for Special Event Permits. (See Attached List)

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said Special Event Permits.

17. Applications received from the following named persons, firms and corporations for RENEWAL of Amusement Licenses for the 2012-2013 licensing year. (See Attached List)

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license renewals.

Vice President Long recused himself from acting on the following item of business, #18, due to a possible conflict of interest.

18. Applications received from the following named persons, firms and corporations for RENEWAL of Hawker's Licenses for the 2012-2013 licensing year. (See Attached List)

On motion of Councillor Viveiros, duly seconded, it was voted unanimously to grant said license renewals.

19. Application of Shaw's Supermarket, Inc. dba Shaw's, 71 East Main Road, for RENEWAL of a Mechanical Amusement Device License for the 2012-2013 licensing year.

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license renewal.

20. Application of Stop & Shop Supermarket Company, 1360 West Main Road, for RENEWAL of a Holiday License for the 2012-2013 licensing year.

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license renewal.

LICENSE & PERMITS

21. Application of Newport County Community Mental Health Center, Inc. dba NCCMHC'S May is Mental Health Month 5K Fun Run, 5K Fun Run/Walk, taking place at 127 Johnny Cake Hill Road (Aquidneck Corporate Park on Saturday, May 12, 2012 beginning at 10:00 am until 1:00 p.m. (Request to waive fee attached)

Councillor Cambra suggested that funds from the President's Discretionary Fund be utilized to finance the permit fee.

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said Special Event Permit and waive fee.

22. Application for Special Event Permit from Middletown Education Collaborative for Family Beach Party and Duck Race to be held at Third Beach on Thursday, July 12, 2012 beginning at 4:00 pm until 8:00 pm. (Request to waive fee attached)

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said Special Event Permit and waive fee.

23. Application of Becky Hanos dba Just Dogs, Newport, for a Hawker's License for the 2012-2013 licensing year. (NEW; Cart to be placed on East Main Road @ Grange Hall, permission attached)

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license.

Vice President Long recused himself from acting on items #24, 25 and

27, due to a possible conflict of interest.

24. Application of John Messenger dba Jay Vending Company, Maryland, for a Victualling House License (Second Beach) for the 2011-2012 licensing year. (NEW)

On motion of Councillor VonVillas, duly seconded, it was voted unanimously to grant said license contingent on Building Official, Fire Marshal, Public Works and Board of Health approvals.

25. Application of John Messenger dba Jay Vending Company, Maryland, for a Hawker's License (Second Beach) for the 2012-2013 licensing year. (NEW)

On motion of Councillor Viveiros, duly seconded, it was voted unanimously to grant said license.

26. Application of KJ's Pub, LLC dba KJ's Pub for expansion of Victualling House License to include the outside patio (24 seats) for the 2011-2012 licensing year. (NEW)

On motion of Vice President Long, duly seconded, it was voted unanimously to continue this matter to the next regular meeting of the Council, to be held on May 7, 2012.

See above recusal of Vice President Long.

27. Applications received from the following named persons, firms and corporations for RENEWAL of Peddler's Licenses for the 2012-2013 licensing year. (See Attached List)

On motion of Councillor Viveiros, duly seconded, it was voted unanimously to grant said license renewals.

ORDINANCES

28. An Ordinance of the Town of Middletown (First Reading)

An Ordinance in Amendment to the Town Code Title IX General Regulations, Chapter 93 Harbor Rules and Regulations, Section 93.60.1 Dinghy/kayak Rack Rental.

Town Administrator Shawn Brown reviewed the proposed ordinance. Mr. Brown noted that the addition of a dinghy/kayak rack is supported by the Beach Commission. The Public Works Department will construct the racks.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said ordinance on its first reading.

29. An Ordinance of the Town of Middletown (First Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 36 Fee Schedule, Section 33 Beach Fees.

Town Administrator Shawn Brown noted that this ordinance is the fee associated with the Dinghy/kayak Rack rental.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said ordinance on its first reading.

30. An Ordinance of the Town of Middletown (First Reading)

An Ordinance in Amendment to the Town Code Title IX General Regulations, Chapter 94 Streets, Sidewalks and Public Places, Section 94.36 Overnight dry camping.

Town Administrator Shawn Brown reviewed the ordinance

concerning overnight dry camping, explaining that there will be no water or electric hookups, all must be self contained. There will be no more than three campers per night in the Third Beach Parking lot.

Councillor Viveiros request that the ordinance be amended stating the words “self contained”.

On motion of Councillor Viveiros, duly seconded, it was voted unanimously to insert the words “self contained” in Section A of the ordinance regarding the definition.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said ordinance on its first reading, as amended.

31. An Ordinance of the Town of Middletown (First Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title III Administration, Chapter 36 Fee Schedule, Section 34 Campground Fees.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said ordinance on its first reading.

32. An Ordinance of the Town of Middletown (First Reading)

An Ordinance in Amendment to the Town Code of the Town of Middletown, Title IX General Regulations, Chapter 91 Fire Protection, Section 91.12 Bonfire, Rubbish Fires Regulated.

Town Administrator Shawn Brown explained that at the April 2, 2012 Regular Meeting of the Council he was requested to revisit the Open Burning Ordinance.

Councillor Cambra requests that language be inserted to include different zoning areas, R-30 and above.

On motion of Councillor Cambra, duly seconded, it was voted unanimously to look into making exceptions for different zoning issues.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said ordinance on its first reading.

OTHER COMMUNICATIONS

33. Senator Louis P. DiPalma, re: Discussion regarding the following resolutions:

On motion of Vice President Long, duly seconded, it was voted unanimously to receive the following four resolutions to be acted on individually.

a. Resolution of the Council, re: Supporting S2724, Sub A, “An Act Relating to State Affairs and Government – Sovereignty and Jurisdiction of State” - authorizing the conveyance of certain parcels of land in the Town of Middletown and City of Newport to the Federal Government for the benefit of the United States Navy.

Senator Louis P. DiPalma, 24 Sail Court, addressed the Council noting that the legislation authorizes the conveyance of certain parcels of land in the Town of Middletown and City of Newport to the Federal Government for the benefit of the United States Navy. Senator DiPalma requests support for this legislation in the form of a resolution.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

b. Resolution of the Council, re: Supporting S2835 “An Act Relating to State Affairs and Government – Distressed Areas Economic Revitalization Act” – adding certain federal census tracts within the Town of Middletown to the Enterprise Zone designation under the

distressed areas economic revitalization act.

Senator Louis P. DiPalma, 24 Sail Court, addressed the Council noting that the legislation adds certain federal census tracts within the Town of Middletown to the Enterprise Zone designation under the distressed areas economic revitalization act. Senator DiPalma requests support for this legislation in the form of a resolution.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

c. Resolution of the Council, re: Supporting S2631, “An Act Relating to Towns and Cities – State Aid” – allowing cities and towns to receive state aid in lieu of taxes not paid by federal government facilities located in their jurisdictions.

Senator Louis P. DiPalma, 24 Sail Court, addressed the Council noting this legislation will allow cities and towns to receive state aid

in lieu of taxes not paid by federal government facilities located in their jurisdictions. Senator DiPalma requests support for this legislation in the form of a resolution.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

d. Resolution of the Council, re: Supporting S2315 “An Act Relating to Libraries – Office of State Library and Information Services – providing for library assistance grants to assist in funding library operations, enhancing library collections and aiding interlibrary cooperation.

Senator Louis P. DiPalma, 24 Sail Court, addressed the Council noting this legislation provides for library assistance grants to assist in funding library operations, enhancing library collections and aiding interlibrary cooperation. Senator DiPalma requests support for this legislation in the form of a resolution.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

COMMUNICATIONS OF TOWN COUNCIL

34. By motion of the Town Council, April 2, 2012, Resolution of the Council, re: Supporting passage of H7036 that would prevent a toll from being charged for the use of the Sakonnet River Bridge and prohibit transfer of bridge to RI Bridge and Turnpike Authority without General Assembly approval.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

35. At the request of Council President Weber, Resolution of the Council, re: Opposing passage of Article 24 within House Bill 7323 – changing the term “hotel” to include houses, condominiums or other dwelling units, which are rented out for a total of fifteen (15) days or

more per year.

Vice President Long requests that items #35, #36, #37 and #39 be continued to the first regular meeting in May. Mr. Long expressed concern that currently there is no policy to include underlying legislation in the docket and requests that going forward legislation be included.

Vice President Long, moved, duly seconded, that the four items, #35, #36, #37 and #39, be taken up at the first Council Meeting in May; Council President Weber voted NO to said motion.

36. At the request of Council President Weber, Resolution of the Council, re: Supporting Governor Chafee's Legislative Package.

37. At the request of Council President Weber, Resolution of the Council, re: Opposing H7617, H7618, H7619 and H7620 "Acts Relating to Labor and Labor Relations" and H7250 and S2532

mandating expired teacher contracts must continue at the existing terms and conditions.

38. At the request of Council President Weber, Resolution of the Council, re: Memorializing the General Assembly to Enact Legislation Establishing the East Bay Energy Consortium.

Christine Forester, Wind Turbine Committee Chair, Middletown Representative for the East Bay Energy Consortium, 24 Green End Avenue, requested Council support for the resolution which will allow development of enabling legislation.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

39. At the request of Councillor Silveira, Resolution of the Council, re: Opposing Governor Chafee's proposed 2% increase in the meals and beverage tax.

40. Communication of Councillor Viveiros, re: Discussion of State reduction of Jobs Fund/Fiscal Stabilization Funds monies.

Councillor Viveiros reviewed the communication entered here:

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.

Councillor Viveiros requests clarification of the process from the Superintendent and Department of Education.

Councillor VonVillas, responding to Councillor Viveiros, explained that the process in within Article 12 Education Job Funds, Chapter 16, legislation was followed.

Town Administrator Shawn Brown explained that process was followed according to the statute. Mr. Brown noted this is a function of accounting; not a loss, but reclassification of revenue.

COMMUNICATIONS OF TOWN ADMINISTRATOR

41. Memorandum of Town Administrator, with enclosures, re: RIDOT STARS (Strategically Targeted Affordable Roadway Improvements) project.

Town Engineer Warren Hall reviewed the memorandum, entered here:

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

42. Memorandum of Town Administrator, with enclosures, re: Award of Contract – Impact Fee Study.

Town Administrator Shawn Brown reviewed the memorandum, entered here:

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

43. Resolution of the Council, re: Award of Contract – Impact Fee Study.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

44. Memorandum of Town Administrator, with enclosures, re: Award

of Contract – Green End Avenue Culvert Replacement @ Paradise Brook.

Town Administrator Shawn Brown reviewed the memorandum, entered here:

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

45. Resolution of the Council, re: Award of Contract – Green End Avenue Culvert Replacement @ Paradise Brook.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

APPOINTMENTS TO BOARDS & COMMITTEES

46. Appointment of two (2) members to the Substance Abuse Prevention Task Force for a term expiring March 2015.

On motion of Vice President Long, duly seconded, it was voted unanimously to appoint Jill Connors Cooper and Vincent J. McMahon to the Substance Abuse Prevention Task Force for terms expiring March 2015.

EXECUTIVE SESSION

47. Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-26-5 (a) (2) Collective Bargaining (Town Hall) and (2) litigation (Tax Appeal Case – Commerce Drive).

On motion of Vice President Long, duly seconded, it was voted unanimously to recess open session at 8:25 P.M. and reconvene in executive session.

On motion of Councillor Cambra, duly seconded, it was voted unanimously to reconvene in open session at 8:45 P.M.

On motion of Vice President Long, duly seconded it was voted unanimously to authorize negotiations and settlement of the matter by the Town Solicitors Office.

On motion of Vice President Long, duly seconded, it was voted unanimously to seal the minutes of executive session pursuant to Section 42-46-7. RIGL.

On motion of Vice President Long, duly seconded, it was voted unanimously to adjourn said meeting at 8:49 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

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